

**FAX COVER SHEET****Nixon & Vanderhye PC**

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TO: Richard M. Ross, Esq.  
FIRM: UNITED STATES PATENT AND TRADEMARK OFFICE  
FAX NO: 703.308.6459  
DATE: March 1, 2004  
FROM: Bryan H. Davidson  
PAGES: 11 (including this cover page)

RECEIVED  
11 MAR 2004

Serial No: 10/009,304  
Atty. Dkt No.: 1858-30

Legal Staff  
International Division

**MESSAGE**

Mr. Ross,

Attached is a formal reply to your Communication dated February 23, 2004, along with all supporting documentation. Please call me once you have had an opportunity to review this matter so I may inform my client as to the status of the application.

Sincerely,  
Bryan H. Davidson  
Reg. No. 30251  
Direct Dial: (703)816-4026

The documents accompanying this facsimile transmission contain information belonging to Nixon & Vanderhye, which is confidential and/or legally privileged. This information is only intended for the use of the individual or entity named above. IF YOU ARE NOT THE NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR TAKING OF THIS INFORMATION FOR ANY USE WHATSOEVER IS STRICTLY PROHIBITED. If you have received this facsimile in error, please immediately contact us by telephone to arrange for return of the original documents to us.

**CONFIDENTIALITY NOTE**

**FILED VIA FACSIMILE - (703)308-6459****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

**HARUNA et al**Serial No. **10/009,304**Atty. Ref.: **1858-30**National Phase of: **PCT/JP00/03912**  
International Filing Date: **June 15, 2000**Group: **(Unknown)**Filed: **September 26, 2002**  
For: **NUCLEATING AGENT**Examiner: **(Unknown)**

\* \* \* \* \*

November 18, 2003

Assistant Commissioner for Patents  
Washington, DC 20231**ATTN: Richard M. Ross, Esq.  
PCT Petitions Attorney  
PCT Legal Office****RESPONSE TO COMMUNICATION DATED FEBRUARY 23, 2004 OR ALTERNATIVELY  
PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION**

Sir:

**I. RESPONSE TO COMMUNICATION DATED FEBRUARY 23, 2004**

This paper is being filed in response to the "Communication" dated February 23, 2004. Specifically, the Petitions Examiner helpfully noted that the official record file in the Office did not, as of the date of the Communication, contain a response to the Decision dated May 19, 2003. A formal response to the Decision dated May 19, 2003 was in fact filed, however, on November 18, 2003.

A true and accurate copy of the response filed on November 18, 2003 is attached hereto. That the Office actually received the response on November 18, 2003 is evidenced by the accompanying copy of the undersigned's post card filing receipt. In addition, the Examiner will note that the November 18, 2004 response was filed along with a time extension petition of four (4) months from the nominal due date of July 19,

HARUNA et al  
Serial No. 10/009,304

2003 and the appropriate fee in the amount of \$1,480.<sup>1</sup> A copy of our firm's cancelled check covering the extension fee which accompanied the November 18, 2003 response is also attached.

Therefore, in view of the evidence provided herewith, it is suggested that all outstanding issues have been resolved and official notice to that effect is awaited.

**II. ALTERNATIVE PETITION UNDER 37 CFR §1.137 TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION**

In order to ensure consideration of this application, applicants' undersigned attorney hereby petitions in the alternative to revive the subject application under 37 CFR §1.137(b). In this regard, the entire delay in filing the reply to the Decision dated May 19, 2003 until the filing of a grantable petition pursuant to Rule 137 was unintentional.

**III. FEE AUTHORIZATION**

It does not appear that any fees are required in order for the Examiner to consider this response to the Communication dated February 23, 2004.

However, in the event that a formal petition to revive the subject application for unintentional abandonment, or any other fee is deemed necessary in order for the Office to further act in this application, the Commissioner is hereby authorized to charge the petition fee required by Rule 137(b)(2) and/or any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

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<sup>1</sup> The undersigned notes that extensions of time under 37 CFR §1.136(a) were available since none of the exceptions in 37 CFR § 1.136(a)(i)-(v) apply in this particular case.

HARUNA et al  
Serial No. 10/009,304

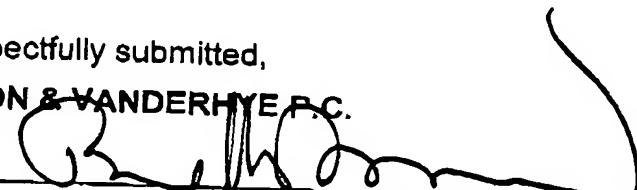
#### IV. CONCLUSION

An early and favorable reply is awaited. Should any small matter need to be resolved, however, the Petitions Examiner is encouraged to telephone the undersigned to explore the most expeditious manner of addressing the same.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:



Bryan H. Davidson

Reg. No. 30,251

BHD:lmv

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Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100

# COPY

S:

A Serial No.: 10/009,304  
Ti Inventor/s: HARUNA et al  
Title: NUCLEATING AGENT

C#/M#: 1858-30  
Atty: Bryan H. Davidson  
Date: November 18, 2003

Address Indication Form  
-  Amendment  
-  Pages Specification, Claims & Abstract  
-  Claims; Sheets of Drawings  
-  Declaration (2 Pages)  
-  Assignment ( Pages) Including Cover  
-  Base Issue Fee Transmittal  
- \$ Fee (Check) - Pre-Bill Pre-Bill: \$ 1480.00  
- \$1,480.00 Fee (Check) - Non Pre-Bill Non Pre-Bill: \$ 1480.00  
TOTAL - \$ 1480.00

Other: Response to Decision on Petitions Dated May 19, 2003, and Renewed Petition Under 37CFR §1.42 with Petition to Extend Current Due Date





## NIXON &amp; VANDERHYE, P.C.

PTO ACCOUNT  
1100 N. GLEBE ROAD, 8TH FLOOR  
ARLINGTON, VA 22201-4714

80336

PAY  
TO THE  
ORDER OF

HON. COMMISSIONER OF PATENTS AND TRADEMARKS

DATE Mar. 18, 2003 68-111-560

Fourteen hundred eighty and 00 / 100 1480.00  
1858-30 DOLLARS 1480.00

THE CHECK IS DECLARED FOR PAYMENT ON THE ACCOUNTS LISTED

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Account:5139088230  
CheckAmt: 1480.00  
SerialNum:80336  
PostDate:20031124  
ItemSeqNu:31000332  
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TransCode:0

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Account:5139088230  
CheckAmt: 1480.00  
SerialNum:80336  
PostDate:20031124  
ItemSeqNu:31000332  
ProcDate:11/24/2003  
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

**HARUNA et al**Serial No. **10/009,304**Atty. Ref.: **1858-30**Group: **(Unknown)**National Phase of: **PCT/JP00/03912**International Filing Date: **June 15, 2000**Filed: **September 26, 2002**Examiner: **(Unknown)**For: **NUCLEATING AGENT**

\* \* \* \* \*

November 18, 2003

**BOX PCT**Assistant Commissioner for Patents  
Washington, DC 20231**ATTN: International Division, Legal Staff****COPY****RESPONSE TO DECISIONS ON PETITIONS DATED MAY 19, 2003, AND  
RENEWED PETITION UNDER 37 CFR §1.42**

Sir:

This paper is being filed in response to the "Decision on Petitions to Vacate Abandonment and Under 37 CFR 1.42 and 27 CFR 1.47(a)" dated May 19, 2003 ("Decision"), which set a nominal response due date of July 19, 2003.

**I. PETITION FOR EXTENSION OF TIME**

Petition is hereby made for an extension of time from the nominal response due date of July 19, 2003, for four (4) months up to, and including, November 19, 2003. The appropriate extension fee under 37 CFR §1.17 is attached.

**II. RENEWED PETITION UNDER 37 CFR §1.42**

Applicants hereby renew the petition under 37 CFR §1.42 due to the death of the inventor, Masayuki TAKAHASHI. In addition, as will be explained below, the factual basis on which the Decision was reached have fundamentally changed so as to render the Decision moot.

Specifically, the undersigned has been informed that the deceased inventor's wife and sole heir at the time of the Decision, Ms. Yuko Takahashi, passed away on or about June 27, 2003. At present, the sole heirs of the deceased inventor's estate are his three children, Mr. Tetsuya Takahashi, Ms. Kaori Takahashi and Ms. Sayuri Takahashi ("the Takahashi children").

Attached hereto therefore is a Declaration under 37 CFR §1.63 which has been executed by the surviving inventor, Mr. Tohru HARUNA and each of the Takahashi children as sole heirs of their father's estate and on behalf of their deceased father, Masayuki TAKAHASHI.<sup>1</sup> An unequivocal statement to that effect appears in the body of the Declaration immediately prior to the signature blocks for each of the Takahashi children.

In view of the fundamentally changed circumstances described above, therefore, it is believed that all issues raised in the Decision have been rendered moot and that this application is in good order for acceptance under the provisions of Rule 42. Such favorable action is solicited.

### III. FEE AUTHORIZATION

It is believed that all fees required to be submitted with this paper have been attached hereto.<sup>2</sup>

However, in the event that any fee is deemed necessary in order for the Office to act on this petition, the Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

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<sup>1</sup> It will be observed that all pertinent information including the deceased inventor's citizenship and last address appears on the accompanying Declaration as well.

<sup>2</sup> The penultimate paragraph on page 4 of the Decision notes that no additional petition fee is required.

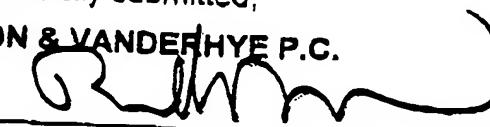
**HARUNA et al**  
**Serial No. 10/009,304**

#### IV. CONCLUSION

An early and favorable reply to this petition is awaited. Should any small matter need to be resolved, however, the Petitions Examiner is encouraged to telephone the undersigned to explore the most expeditious manner of addressing the same.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: 

**Bryan H. Davidson**

Reg. No. 30,251

**BHD:lmv**

1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
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Facsimile: (703) 816-4100



1858-30

Serial No. 10/009,304  
Page 2Nixon & Vanderhye P.C. (10/99)  
(Domestic Non-Assigned/Foreign)

The following individuals represent that they collectively are the sole heirs-in-law of the estate of their deceased father, Masayuki TAKAHASHI, whose address and citizenship appear beside their respective names, and are executing this Declaration on behalf of their deceased father and inventor, Masayuki TAKAHASHI:

3.	Inventor's Signature: Inventor:	<u>Tetsuya</u>		<u>TAKAHASHI</u>		Date: <u>November 9, 2003</u>
	Residence: (city) Mailing Address: (Zip Code)	Tetsuya (first) Tokorozawa-shi, Saitama Forasutawa-Tokorozawa 28-9-801, Motomachi, Tokorozawa-shi, Saitama, Japan 359-1121	MI	TAKAHASHI (Son) (last) (state/country) Japan	Japan (citizenship)	
4.	Inventor's Signature: Inventor:	<u>Kaori</u>		<u>TAKAHASHI</u>		Date: <u>November 9, 2003</u>
	Residence: (city) Mailing Address: (Zip Code)	Kaori (first) Tokorozawa-shi, Saitama Forasutawa-Tokorozawa 28-9-801, Motomachi, Tokorozawa-shi, Saitama, Japan 359-1121	MI	TAKAHASHI (Daughter) (last) (state/country) Japan	Japan (citizenship)	
5.	Inventor's Signature: Inventor:	<u>Sayuri</u>		<u>TAKAHASHI</u>		Date: <u>November 9, 2003</u>
	Residence: (city) Mailing Address: (Zip Code)	Sayuri (first) Tokorozawa-shi, Saitama Forasutawa-Tokorozawa 28-9-801, Motomachi, Tokorozawa-shi, Saitama, Japan 359-1121	MI	TAKAHASHI (Daughter) (last) (state/country) Japan	Japan (citizenship)	

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**TO:** Richard M. Ross, Esq.  
**FIRM:** U.S. Patent and Trademark Office  
**FAX NO:** 703.308.6459  
**DATE:** March 1, 2004  
**FROM:** Bryan H. Davidson  
**PAGES:** 4 (including this cover page)

**Serial No.:** 10/009,304  
**Atty. Dkt. No.:** 1858-30

**MESSAGE**

Mr. Ross,

I just noticed that the Response to your 2/23/04 Communication faxed to you earlier had an incorrect date on its first page. A corrected Response is attached. I would appreciate your substituting it for the one just faxed to you.

Sincerely,  
Bryan H. Davidson

RECEIVED  
11 MAR 2004  
Legal Staff  
International Division

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**HARUNA et al**Serial No. **10/009,304**Atty. Ref.: **1858-30**Group: **(Unknown)**National Phase of: **PCT/JP00/03912**International Filing Date: **June 15, 2000**Filed: **September 26, 2002**Examiner: **(Unknown)**For: **NUCLEATING AGENT**

\* \* \* \* \*

March 1, 2004

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PCT Petitions Attorney  
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HARUNA et al  
Serial No. 10/009,304

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<sup>1</sup> The undersigned notes that extensions of time under 37 CFR §1.138(a) were available since none of the exceptions in 37 CFR § 1.136(a)(i)-(v) apply in this particular case.

HARUNA et al  
Serial No. 10/009,304

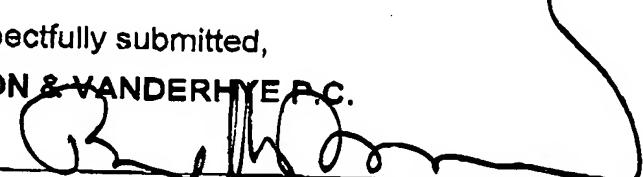
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Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:



Bryan H. Davidson

Reg. No. 30,251

**BHD:imy**

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